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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,130	01/09/2001	Benjamin Englander	P/1123-53	6441
2352	7590	06/14/2004	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			NGUYEN, THONG Q	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,130

Applicant(s)

ENGLANDER, BENJAMIN

Examiner

Thong Q Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 3/8/2004. It is noted that in the mentioned amendment, applicant has made amendments to the specification and to claim 1. The pending claims 1-8 are reexamined in this Office action.

Specification

2. The lengthy specification which is amended by the amendment has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-6 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (U.S. Patent No. 4,822,157, of record) in view of Falge (U.S. Patent No. 1,768,354, of record).

Stout discloses a mirror assembly for use with a school bus wherein the mirror assembly is attached to a front fender of the bus for the purpose of providing the driver of the bus visual access to the area in front of the school bus as well as to the sides of the bus. The mirror assembly as stated at column 2 and shown in figure 1 comprises a mirror element (26) having an oval ellipsoidal shape and

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configured as a convex, generally dome shaped and contiguous mirror surface with its contoured outer surface facing in a direction of the driver. The mirror assembly is secured to a mirror pole (20) via a securing means (48, 50, 52). The mirror pole (20) in turn is inherently secured to the front fender of the school bus. See column 3 and fig. 1. As such, the mirror assembly provided by Stout meets all of the limitations of the device as claimed except a portion of the mirror element being treated for reducing glare.

The treatment on a portion of the mirror element, in particular, on an upper portion of the mirror, for the purpose of reducing glare is known to one skilled in the art as can be seen in the optical system provided by Falge. In particular, Falge discloses a mirror system having a mirror surface wherein the upper portion of the mirror is treated to reduce glare without rendering the treated portion opaque as to be non-reflective. See Falge, page 2 and fig. 8, for example. Regarding to the dimension/size of the portion being treated (36) for reducing glare, in the embodiment of figure 8, the treated portion has an area of one-half of the upper one-third of the mirror (see page 2, column 2, lines 93-101). See also **In re Wertheim**, 541 F. 2d 257, 191 USPQ 90 (CCPA 1976), "the disclosure in the prior art of any value within a claimed range is an anticipation of that range." See also, **Titanium Metals Corporation of America**, 227 USPQ 773 (Fed. Cir. 1985), **In re Petering**, 301 F. 2d 676, 133 USPQ 275 (CCPA 1962). It is noted that the treated portion is located in spaced relation to and not in contact

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with any portion of the uppermost peripheral edge of the mirror surface along the vertical direction of the mirror surface.

Regarding to the feature that the treated portion is located in the area defined from an uppermost position on the contoured mirror surface and the so-called a "curved line which begins and ends on the peripheral edge and which curves relative to a straight line which bisects the mirror surface", such a feature is readable from the mirror having treated portion provided by Falge. In other words, one skilled in the art will recognize that (s)he can drawn any curved line in the area defined between the bottom edge of the treated portion (36) and a straight line which bisects the mirror surface. Applicant should note that such a curved line as recited is merely that of an imaginary line, not a physical line or resulted from a mechanical construction/structure of the mirror surface.

With regard to the feature concerning the formation of the coating band as recited in claim 4, such a feature is directed to a method step and thus is not given a patentable weight.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the mirror assembly provided by Stout by making a portion of the upper one-third of the mirror as a treated portion for reducing glare.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout in view of Falge as applied to claim1 above with or without Malifaud (U.S. Patent No. 3,199,114, of record).

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The combined product as provided by Stout and Falge as described above meets all of the features recited in present claim 7 except the treated portion is located on one side relative to the minor axis of the mirror surface. However, such an arrangement of a treated portion with respect to the area of an optical element having a substantially oval shape as claimed is merely that of a preferred embodiment and no criticality has been disclosed. The support for this conclusion is found in the present specification in which applicant has taught that the treated portion is extended on both side of the minor surface as can be seen in the embodiment described at pages 4-5 and illustrated in present figure 2A-2C. Furthermore, the use of an anti-glare portion which is located on one side of an optical element having an oval shape and on a side relative to a minor axis of the optical element is known to one skilled in the art as can be seen in the anti-glare system provided by Malifaud. See column 5 and fig. 5. Thus, absent any showing of criticality, it would have been obvious to one skilled in the art at the time the invention was made to utilize the teaching, i.e., use the antiglare portion on just one side of an optical element as suggested by Malifaud in the combined product provided by Stout and Falge by using a portion on just one side of the minor axis of a mirror surface which portion is necessary to the driver's field of view as a treated portion for reducing glare and simultaneously reducing the manufacture cost.

Response to Arguments

6. Applicant's arguments filed on 03/08/2004 have been fully considered but they are not persuasive.

Applicant argues that the combined art does not disclose the invention as claimed, see amendment, page 7. The examiner respectfully disagrees with the applicant for the following reasons.

First, the examiner does not agree with the applicant's opinion about the structure of the mirror assembly provided by Falge. While the mirror of Falge is able to pivot for daylight viewing and for nighttime viewing; however, in use, for instance, in the nighttime viewing, the mirror of Falge is a single mirror which provide a wide field of view of a single screen in which a portion of the screen is viewed by the reflection of light from a portion of outer surface of the mirror which is treated and the other portion of the screen is viewed by the reflection of light from the other portion of the outer surface which is not being treated. Applicant is respectfully invited to review the embodiment shown in figure 8 of Falge which discloses that the lower portion of the 1/3 upper portion of the mirror is treated. Such portion cannot be a separated mirror.

Second, regarding to the applicant's argument relating to the feature that the treated portion is located in the area defined from an uppermost position on the contoured mirror surface and the so-called a "curved line which begins and ends on the peripheral edge and which curves relative to a straight line which bisects the mirror surface", such a feature is readable from the mirror having

treated portion provided by Falge. In other words, one skilled in the art will recognize that (s)he can draw any curved line in the area defined between the bottom edge of the treated portion (36) and a straight line which bisects the mirror surface. Applicant should note that such a curved line as recited is merely that of an imaginary line, not a physical line or resulted from a mechanical construction/structure of the mirror surface.

Conclusion

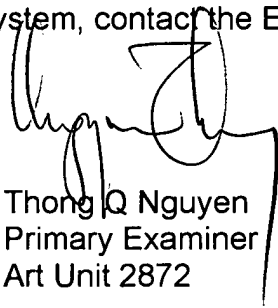
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q Nguyen
Primary Examiner
Art Unit 2872
